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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/845,046	04/26/2001	David M. Cobb	PET-01C	1454
34313	7590	08/10/2006	EXAMINER	
ORRICK, HERRINGTON & SUTCLIFFE, LLP IP PROSECUTION DEPARTMENT 4 PARK PLAZA SUITE 1600 IRVINE, CA 92614-2558			NAJARIAN, LENA	
			ART UNIT	PAPER NUMBER
			3626	

DATE MAILED: 08/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/845,046

Applicant(s)

COBB ET AL.

Examiner

Lena Najarian

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 and 21-35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed 7/3/06. Claims 11-20 are rejected. Claims 1-10 and 21-35 are withdrawn from consideration. Claims 11 and 15 have been amended.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: items 109A, 106B, 105C, and 103C. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The objection above was presented in the previous Office Action. However, it was not addressed by Applicant in the response filed 7/3/06.

Claim Objections

3. Claim 15 is objected to because of the following informalities: there appears to be a typographical error at line 1 ("trading" should be changed to "tracking"). Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Momich et al. (US 6,335,907 B1) in view of Engel et al. (US 2002/0069085 A1), and further in view of Walker et al. (5,673,944).

(A) Claim 11 has been amended to now recite a system for acquiring "and tracking" data, a medical "immunization" product and "a provider computer for receiving the product data including demographic data, and transferring the data to an immunization tracking authority while limiting access to the identity of the patient to thereby develop a database of immunization data."

Momich discloses a provider computer for receiving the product data (Fig. 22 and col. 10, lines 45-56 of Momich).

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Momich does not disclose that the data includes demographic data and transferring the data to an immunization tracking authority while limiting access to the identity of the patient to thereby develop a database of immunization data.

Engel discloses demographic data and limiting access to the identity of the patient (para. 50, para. 37, and para. 60 of Engel).

Walker discloses transferring data to an immunization tracking authority and developing a database of immunization data (col. 6, lines 15-21 and col. 2, lines 57-66 of Walker).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Engel and Walker within Momich. The motivation for doing so would have been to include basic and pertinent information about a patient, to maintain privacy and security, (para. 50, para. 45, and para. 37 of Engel) and to keep immunization records accurate and up to date (col. 1, lines 14-17 of Walker).

The remainder of claim 11 is rejected for the same reasons given in the previous Office Action, and incorporated herein.

(B) Claims 12-14 and 16-20 have not been amended and are rejected for the same reasons given in the previous Office Action, and incorporated herein.

(C) Claim 15 has been amended to now recite a method for acquiring “and tracking” data related to a medical “immunization” product and “supplying patient data including demographic data to an immunization-tracking authority while limiting access to the identity of the patient to thereby develop a database of immunization data.”

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Momich does not disclose supplying demographic data to an immunization-tracking authority while limiting access to the identity of the patient to thereby develop a database of immunization data.

Engel discloses demographic data and limiting access to the identity of the patient (para. 50, para. 37, and para. 60 of Engel).

Walker discloses supplying data to an immunization tracking authority and developing a database of immunization data (col. 6, lines 15-21 and col. 2, lines 57-66 of Walker).

At the time of the invention, it would have been obvious to a person of ordinary skill in the art to combine the aforementioned features of Engel and Walker within Momich. The motivation for doing so would have been to include basic and pertinent information about a patient, to maintain privacy and security, (para. 50, para. 45, and para. 37 of Engel) and to keep immunization records accurate and up to date (col. 1, lines 14-17 of Walker).

The remainder of claim 15 is rejected for the same reasons given in the previous Office Action, and incorporated herein.

Response to Arguments

6. Applicant's arguments with respect to claims 11 and 15 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's arguments filed 7/3/06 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 7/3/06.

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(1) Applicant argues that the teachings of Momich and Engel are so different and diverse, that it is not seen how there could be any incentive to combine their teachings.

(A) In response to applicant's argument that Engel is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the Examiner respectfully submits that both Momich and Engel are systems directed to health care management.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied prior art teaches PRISM E.S. secure immunization registry software (www.ecsprism.com, 8/00); MASI immunization tracking system for Denver Health (Business Wire, 4/00); and Immunization entry at the Point of Service Improves Quality, Saves Time, and Is Well-Accepted (Pediatrics, 9/00).

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

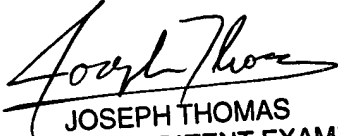
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lena Najarian whose telephone number is 571-272-7072. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LN
In
8-1-06


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER